

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

PITTSFIELD GENERATING COMPANY,))
L.P.,)
Plaintiff)
)
v.) CIVIL ACTION NO. 04-30128-MAP
)
DEVON CANADA CORPORATION,)
Defendant)

ORDER RE: PENDING MOTIONS

December 28, 2004

PONSOR, U.S.D.J.

Following oral argument on December 22, 2004, the court makes the following rulings on motions pending in this case:

1. Motion to Dismiss for Lack of Jurisdiction and Forum Non Conveniens (Docket No. 8).

This motion is DENIED, without prejudice.

2. Motion to Stay in Deference to A Pending Foreign Proceeding (Docket No. 10).

This motion is ALLOWED, without prejudice to a motion for reconsideration if the Canadian litigation unfolds too slowly, or if access to this court is necessary to effectuate discovery or for other good cause.

3. Motion for Leave to File Excess Pages (Docket No. 15).

This motion is ALLOWED.

4. Motion for Leave to File Reply (Docket No. 22).

This motion is ALLOWED.

5. Motion to Dismiss for Lack of Jurisdiction and Forum Non Conveniens (Docket No. 27).

This motion is DENIED, without prejudice.

6. Motion for Leave to File Reply (Docket No. 31).

This motion is ALLOWED.

As part of its ruling allowing the defendant's Motion to Stay, the court hereby orders the defendant to report to this court, in writing, on or before June 30, 2005, regarding the status of the parallel Canadian litigation, and to file a written status report every six months thereafter, or earlier if the developments in the Canadian case warrant.

It is So Ordered.

/s/ Michael A. Ponsor
MICHAEL A. PONSOR
U. S. District Judge